

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

REGINA JOHNSON, ON BEHALF OF HERSELF
INDIVIDUALLY AND ON BEHALF OF ALL
SIMILARLY SITUATED PERSONS

PLAINTIFF

V.

CIVIL ACTION NO. 4:21-cv-00062-DMB-JMV

UNIVERSITY OF MISSISSIPPI AND
CLAY JONES, Individually and in His
Capacity as Director of Human Resources

DEFENDANTS

PLAINTIFF'S RESPONSE IN OPPOSITION
TO DEFENDANTS UNIVERSITY OF MISSISSIPPI
AND CLAY JONES MOTION TO DISMISS

COMES NOW plaintiff, by and through counsel of record, pursuant to L.U. Civ. R. 7(b)(4) and files this her response in opposition to defendants University of Mississippi and Clay Jones motion to dismiss and states:

1. Under the single-filing or piggybacking rule, parties who have not filed charges with the Equal Employment Opportunity Commission (EEOC) may join as co-plaintiffs or as class members in a civil action with plaintiffs who have filed EEOC charges.

2. Plaintiff concedes that her EEOC charge of discrimination did not check the box for "sex" and her sex discrimination claim should be dismissed.

3. Plaintiff's Class Action Complaint plausibly alleges intentional discrimination based on race, age and retaliation under Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act (ADEA) and 42 U.S.C. Section 1983.

4. The University of Mississippi's Eleventh Amendment Immunity is avoided by the Ex

Parte Young Exception for an ongoing violation of federal law properly characterized as prospective.

5. Plaintiff concedes the Fifth Circuit has held that 42 U.S.C Section 1981 does not give rise to an independent cause of action against a state actor.

6. Plaintiff concedes that her complaint fails to state a federal claim against Clay Jones in his individual capacity under Title VII or the ADEA and that he should be dismissed.

SO RESPONDED, this the 13th day of September, 2021.

Respectfully Submitted,
REGINA JOHNSON, Plaintiff

BY: /s Ellis Turnage
ELLIS TURNAGE, Attorney for Plaintiff

OF COUNSEL:

Hon. Ellis Turnage, MSB #8131
TURNAGE LAW OFFICE
108 North Pearman Avenue
Post Office Box 216
Cleveland, Mississippi 38732
Tel: (662)843-2811
Fax: (662)843-6133
eturnage@etlawms.com

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing document on all of the parties to this cause by:

- _____ Hand delivering a copy hereof to each party attorney as listed below
- _____ Depositing a copy hereof, postage paid, in the United States Mail, addressed to each party's attorney as listed below
- _____ Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to each party's attorney as listed below
- _____ Telecopying a copy hereof to each party's attorney as listed below
- X Electronically filing a copy of hereof with the Court's electronic case filing system which will send electronic mail notifications of the filing of the foregoing document to each party's attorney as listed below
- _____ Sending via electronic mail to each party's attorney as listed below.

Hon. J. Cal Mayo, Jr.
Hon. Paul B. Watkins, Jr.
Hon. J. Andrew Mauldin
Hon. Breanna F. G. Young
MAYO MALLETTE PLLC
Post Office Box 1456
Oxford, Mississippi 38655
cmayo@mayomallette.com
pwatkins@mayomallette.com
dmauldin@mayomallette.com
byoung@mayomallette.com
Attorneys for Defendants

THIS the 13th day of September, 2021.

/s Ellis Turnage
ELLIS TURNAGE